

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RANDY DAVIS : CIVIL ACTION  
: :  
: v. :  
: :  
CITY OF PHILADELPHIA, ET AL. : : NO. 05-CV-4571

**ORDER**

AND NOW, this 11 day of August 2009, upon consideration of defendant City of Philadelphia's motion to dismiss plaintiff Randy Davis' claims under 42 U.S.C. § 1983, the Federal Arbitration Act, (FAA) 9 U.S.C. § 1, the Labor Management Relations Act, (LMRA) 29 U.S.C. § 141, the Pennsylvania Public Employee Relations Act (PERA), and plaintiff's common law breach of contract and arbitration award claims, defendants Charlotte Council, Aaron Horne, John Gaittens and Captain Levins' motion to dismiss plaintiff's claims under § 1983 and the Pennsylvania Human Rights Act (PHRA) and plaintiff's response thereto, for the reasons stated in the accompanying memorandum it is hereby ORDERED that:

1. Defendants Council, Horne, Gaittens and Levins' motion to dismiss plaintiff's § 1983 and PHRA claims is DENIED;
2. Defendant City of Philadelphia's motion to dismiss plaintiff's FAA claim is DENIED;
3. Defendant City of Philadelphia's motion to dismiss plaintiff's common law contract claim is DENIED without prejudice to permit rebriefing; parties have 20 (twenty) business days from the date of this ORDER to simultaneously rebrief this issue;
4. Defendant City of Philadelphia's motion to dismiss plaintiff's claim against it for

punitive damages under § 1983, the PERA claim and the common law arbitration claim is GRANTED; plaintiff's claims under the PERA and common law arbitration and the claim for punitive damages under § 1983 are DISMISSED;

5. Defendant City of Philadelphia's motion to dismiss plaintiff's § 1983 and LMRA claims is GRANTED and these counts of the complaint are dismissed without prejudice. Plaintiff is given leave to amend his complaint for these counts within 20 (twenty) business days from the date of this ORDER.

s/ Thomas O'Neill  
THOMAS N. O'NEILL, JR., J.